THE HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.No. 6724 of 1998

18-04-2007

Between:-

K. Aruna Kumari

Petitioner

And

The Managing Director,
A.P. Women's Co-op. Finance Corpn., Ltd.,
Vengal Rao Nagar, Hyderabad and another.

Respondents

THE HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.No. 6724 of 1998

Oral order:

The writ petition is filed aggrieved that the respondents have not regularized the services of the petitioner. The petitioner claims to have entered service as Store Keeper in Telugu Bala Mahila Pragathi Pranganam, Perkit, Nizamabad district on 15-06-1988; and to have been in continuous service since then with artificial breaks at the end of every six months. According to the petitioner though she is fully eligible and qualified, she has not been regularized and is being continued only on consolidated pay. According to the petitioner, this Court in similar circumstances, by the judgment dated 31-12-1996 in W.P.No. 17938 of 1996 and batch, directed the respondents-Corporation to regularize the services of

the petitioners therein and pay them regular scale of pay. W.A.Nos. 334 of 1997 and batch preferred against the said judgment is stated to have been dismissed on 05-08-1997, according to the petitioner. Though the petitioner's case is identical or at any rate substantially similar, the respondents-Corporation had denied her relief, is the grievance.

On behalf of the respondents a counter affidavit is filed. The counter states that the petitioner was appointed on 15-06-1988 as UD Accountant and joined on the said date and her services were extended up to 30-09-1992 as a temporary measure. She was thereafter terminated and appointed as a Store Keeper with effect from 01-10-1992. She is on consolidated pay. As the petitioner had completed five years of service as on 25-11-1993 in terms of G.O.Ms.No. 212 Finance & Planning (F.W.P.C.III) Department dated 22-04-1994, the answering respondent had sent proposals to the Government by letter dated 10-12-1997 to consider the petitioner's case for regularization. However the post of Store Keeper has not been sanctioned by the State Government. The counter further states that the provisions of A.P. Act 2 of 1994 (for short 'the Act') bar regularization of service and Section 7 of the Act ordains that no person who is a daily wage employee or appointed on a temporary basis and continuing as such at the commencement of the Act shall be or shall even have a right to claim for regularization of

services on any ground whatsoever and the services of such person shall be liable to be terminated at any time without any notice and without assigning any reason. As there is no sanctioned post of Store Keeper, the services of the petitioner cannot be regularized is the substrate of the respondent's case.

In the light of the law declared by the Constitution Bench of the Supreme Court in *Secy., State of Karnataka & Ors., v. Uma Devi & 3 Ors.,*[1] no order of regularization could be issued without the existence of a sanctioned post and in any event no order of regularization could be issued, if the initial recruitment is not in accordance with the Rules or by following a transparent process of recruitment, by a public authority.

The petitioner failed to plead and demonstrate that she was appointed by the respondent-Corporation after a process of calling applications and selections, nor does the petitioner dispute the assertion that there is no sanctioned post of Store Keeper whereat she could have been appointed.

In the aforesaid circumstances and in the light of law declared in *Uma Devi's* case (supra), no relief could be granted. The writ petition is accordingly dismissed. No costs.

GODA RAGHURAM, J

Dated:18-04-2007
Pvks/*

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1 . 2006 (4) SCC 1